

IN RE: Application of NBF Beaufort, LLC d/b/a Two)
 Men and a Truck Beaufort to Amend Tariff)
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)

ORDER APPROVING
AMENDMENTS IN PART,
AND DENYING
AMENDMENTS IN PART

NBF Beaufort, LLC, doing business as Two Men and a Truck Beaufort, (NBF Beaufort), filed an application with the South Carolina Public Service Commission (Commission) on December 1, 2021, to amend its tariff, to request use of an electronic bill of lading, to change the address on its Class E Certificate of Public Convenience and Necessity, and to seek the Commission's permission to waive publishing of the Notice of Filing in a newspaper. We previously granted the request of NBF Beaufort in this docket to waive publication of the Notice in a newspaper in Directive Order No. 2022-23. In this order we approve the proposed amendments in part, and deny in part, unless certain requests are modified, as more fully set forth below.

NBF Beaufort, LLC, doing business as Two Men and a Truck Beaufort, formerly Salt Marsh Ventures, LLC, operates as a mover of household goods pursuant to Class E Certificate of Public Convenience and Necessity No. 9844-A. *See* Order Nos. 2018-134, 2021-727.

In this December 1, 2021 filing, NBF Beaufort makes four requests of the Commission: approve tariff amendments, approve an address change for the certificate, waive publication of the notice of filing, and approve the company's use of an electronic bill of lading. *See* emailed correspondence from Bryan Feldman, dated November 30, 2021, filed December 1, 2021.

On December 1, 2021, the Office of Regulatory Staff notified the Commission Nicole M. Hair, Esquire, would represent ORS in this proceeding, pursuant to section 58-4-10(B) of the South Carolina Code of Laws (Supp. 2021).

On December 22, 2021, NBF Beaufort responded to a Commission request for clarification of its proposed changes and provided a red-lined version of its current tariff and an example of an electronic bill of lading. In addition, NBF Beaufort provided the following justification for seeking rate amendments:

We are requesting to amend our tariff mostly in the areas of pricing. In the last two years we have seen an increase in costs from all of our vendors pricing, fuel prices, real estate cost of our new office, cost of labor, limited availability of supplies, etc. Also, due to labor shortages and the struggles with running a business during Covid 19, we have seen a reduced capacity and ability to hire and employ qualified employees. [T]hese factors and more are contributing to our need to raise our pricing [and to] make some additional changes to the tariff in order for our business to succeed.

Email, December 22, 2021, from Bryan Feldman.

The company's application provided information and reasoning for its proposed use of an electronic bill of lading. *See* correspondence dated November 24, 2021, from Bryan Feldman.

On January 13, 2022, the Commission issued Directive Order No. 2022-23, approving the company's request to be relieved from publishing the Notice of Filing in a newspaper, finding publication on the Commission's docket management system and website was appropriate.

On January 19, 2022, the Clerk's Office of the Commission prepared a Notice of Filing with a summary of some of the proposed amendments and established February 23, 2022, as a deadline for intervention. No person intervened as a party of record.

On February 23, 2022, ORS provided a tariff comparison and the results of its review of the company.

On March 10, 2022, the Commission heard a motion regarding the docket. The following motion carried, with five Commissioners voting "yes," and two Commissioners voting "no."

I move the Commission approve the request of NBF Beaufort to amend the rates and charges in its proposed tariff as reasonable. NBF provided justification to the Commission for its request to increase its rates and charges. The Office of Regulatory Staff indicates NBF is in compliance with all Commission rules and regulations.

I further move the Commission approve the request of NBF Beaufort to utilize an electronic bill of lading, as presented in the application, as long as the bill of lading conforms to the requirements of Regulations 103-158, 159, and 162, the South Carolina Uniform Commercial Code, and all other statutes and regulations of the Public Service Commission.

I also move the Commission request the Office of Regulatory Staff update the mailing address of the company on its Certificate of Public Convenience and Necessity. NBF Beaufort shall provide the correct, current address of the company to the Commission and to ORS within seven days of the issuance of the final order in this docket.

However, I move the Commission deny the request of NBF to utilize several sections of its proposed tariff without further modification.

The Commission requires NBF use a full replacement coverage provision approved by the Commission, whether the provision is included in the tariff, or is provided to a customer “upon request.” The proposed tariff does not provide sufficient information regarding the full replacement coverage options. I move the company either use the previously approved coverage found in the current tariff or seek approval to change the coverage provisions.

I move the Commission deny approval of the Presentation of Claims provision (3.2) which requires a customer to present a claim for damages to the company after a move within ninety-six hours of the move. I move it is reasonable for the company to require a customer to report a claim of damage within fourteen days after a move.

Finally, I move NBF modify its table of contents to reflect accurate page numbers for each section of the tariff. In addition, NBF shall provide the Commission and ORS with a Final Tariff and Bill of Lading that conforms to the findings of the Commission within thirty days of the date the Commission issues its order regarding this docket.

Commission Directive, dated March 10, 2022.

On March 10, 2022, Bryan Feldman of NBF Beaufort clarified the company’s address change request as follows: “. . . we want to keep the mailing address as 107 Sandra Ave Greenville, SC 29611. But, we would like to change the physical address to 139 Hartwell Ave Ridgeland, SC 29336.” *See* email dated March 10, 2022.

III. APPLICABLE LAW

A. Tariffs

The Commission is specifically authorized to regulate carriers of household goods, and to set their rates and charges: “[t]he commission must promulgate regulations necessary to control entry and certification standards, set rates and charges, and establish enforcement procedures and powers to govern the operations of carriers of household goods and hazardous waste for disposal.” S. C. Code Ann. § 58-23-590 (2015).

The Commission is authorized to fix or approve the rates charged by every South Carolina motor vehicle carrier: “[t]he commission shall regulate every motor carrier in this State and fix or approve the rates, fares, charges, classifications, and regulations pertaining to each motor carrier The rates once established remain in effect until such time when the commission determines the rates are unreasonable.” § 58-23-1010.

In addition, Regulation 103-190 requires all tariffs to be approved before a company may perform any service: “No motor freight carrier who operates under a Certificate of PC&N may operate or perform any service under its operating authority until rates, fares, charges, classifications, and rules for the services to be performed shall have been approved by the commission.” S.C. Code Ann. Regs. 103-190 (2012).

Furthermore, all motor carriers operating under Class E certification must establish just and reasonable regulations and operating procedures:

Every motor carrier of property operating under a Certificate of PC&N and FWA shall provide safe and adequate service, equipment, and facilities for the transportation of property, and shall establish, observe, and enforce just and reasonable regulations and practices relating thereto and to the manner

and method of presenting, marking, packing, and delivering property for transportation, the facilities for transportation, and all other matters relating to or connected with the transportation of property.

S.C. Code Ann. Regs. 103-195 (2012).

The Commission is authorized to change or revise any rates or rules of a carrier operating with a certificate of public convenience and necessity:

1. The commission shall make, fix, establish, or allow just and reasonable rates, fares, charges, classifications, and rules for all motor carriers subject to its rate jurisdiction.
2. As often as circumstances may require, the commission upon notice and hearing, if deemed necessary, from time to time may change or revise, or cause to be changed or revised, any rates, fares, charges, classifications, and rules of a carrier who operates under a Certificate of PC&N.

S.C. Code Ann. Regs. 103-191 (2012).

“Every rate made, demanded, or received by any motor carrier operating under a Certificate of PC&N . . . shall be just and reasonable.” S.C. Code Ann. Regs. 103-192 (2012).

The Commission may consider certain factors in approving rates:

In the exercise of its power to prescribe just and reasonable rates for the transportation of passengers or property by common carriers operating under a Certificate of PC&N, the Commission may give due consideration, among other factors, to the need in the public interest of adequate and efficient transportation service by such carriers at the lowest cost consistent with the furnishing of such service and to the need of such carriers for revenues sufficient to enable them, under economical and efficient management, to provide such service.

S.C. Code Ann. Regs. 103-194 (2012).

Once rates are approved, motor carriers are prohibited from charging more or less than the rates specified in lawful tariffs, schedules, or by specific order of the Commission:

[N]o motor carrier operating under a Certificate of PC&N shall charge . . . a greater or lesser or different compensation for transportation, or for any service rendered, than the rates, fares, and charges specified in the lawfully applicable tariffs or schedules in effect from time to time.

S.C. Code Ann. Regs. 103-198 (2012).

B. Bills of Lading

Regulation 103-159 lists the information a motor carrier of household goods must include in its bill of lading:

1. The name of issuing carrier;
2. The date the shipment was received by the carrier;
3. The name and address of the consignor/shipper;
4. The points of origin and destination;
5. The name and address of the consignee/receiver;
6. Declaration of valuation (motor carriers of household goods);
7. The weight by certified public scale, volume, or measurement of the property tendered and received for transportation according to the lawfully applicable rates and charges shown separately by classification;
8. If it relates to a C.O.D. shipment, the amount of the C.O.D. and the name of the individual, corporation, or association who is actually to pay the C.O.D.;

9. Public Service Commission identification number;
10. Financial responsibility information as to insurance coverages;
11. The number of the bill of lading, as numbered consecutively in each motor carrier's own series at the time of printing;
12. Any accessorial or additional service charges in detail, giving size, and kind of equipment, the number of men and total hours of extra labor, and equipment services provided;
13. Rate per hundred weight or rate per hour, whichever is applicable (motor carriers of household goods); and
14. Base liability amount of the carrier for its cargo.

S.C. Code Ann. Regs. 103-159 (2012).

All holders of Certificates of PC&N and FWA, upon receipt of freight, shall issue and deliver, or cause to be issued and delivered, to the shipper a bill of lading or other documentation approved by the commission. A combination bill of lading and freight or expense bill or invoice may be issued if it shows all of the information required in 103-159. All bills of lading shall comply with, be governed by, and have the consequences stated in the Uniform Commercial Code of South Carolina and any other applicable and effective provisions of the statutes. All carriers, shippers, consignees, and any lease operators involved in a shipment shall keep a copy of the bill of lading for a minimum of three years.

S.C. Code Ann. Regs. 103-158 (2012).

The South Carolina UCC, referenced in the above regulation, defines "record" as both a tangible record and an electronic one: "'Record' means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form." S.C. Code Ann. § 58-1-201 (31) (2015).

A bill of lading must accompany each shipment:

Each shipment by a freight carrier holding a Certificate of PC&N or FWA must be accompanied by the bill of lading relating thereto or some other procedure authorized by the commission. If two or more trucks are used to transport a single shipment, a separate bill of lading or descriptive instrument must accompany the portion of the shipment contained in each of the trucks and each such bill of lading or descriptive instrument must show, with respect to that portion of the shipment which it accompanies, all information required by 103-159, and must refer specifically to the bill of lading which covers the entire shipment.

S.C. Code Ann. Regs. 103-162 (2012).

IV. ANALYSIS

NBF Beaufort provided sound reasons to support its request to increase its rates and charges, including the company's increase in costs to operate the business, labor shortages, and COVID-19. The proposed amendments to rates and charges are reasonable.

Regulation 103-159 lists the information a motor carrier of household goods must include in a bill of lading, requires delivery of the bill of lading to the customer, requires the bill of lading conforms to applicable statutes, and directs the motor carrier to keep a copy for at least three years. As long as these requirements are met, there is no prohibition against using an electronic BOL, and the Commission has approved these requests in the past.

We also find the request of NBF Beaufort to indicate accurate address information on the Certificate of Public Convenience and Necessity is appropriate. The company has expressly indicated its physical address is 139 Hartwell Avenue, Ridgeland, South Carolina

29336, and its mailing address is 107 Sandra Avenue, Greenville, South Carolina 29611, and we ask ORS to make the necessary changes to the Certificate.

The Commission requires NBF Beaufort to use a full replacement coverage provision approved by the Commission if NBF Beaufort opts to offer such coverage. “The commission shall make, fix, establish, or allow just and reasonable rates, fares, charges, classifications, and rules for all motor carriers subject to its rate jurisdiction.” S.C. Code of State Regulations 103-191 (2012). The current tariff specifies the particulars of full replacement coverage.

We deny the request of NBF Beaufort to require a customer to make a claim for damages within ninety-six hours of the move. We find it is reasonable for the company to require a customer to report a claim of damage within fourteen days after a move. “Every motor carrier of property operating under a Certificate of PC&N . . . shall establish, observe, and enforce just and reasonable regulations and practices . . .” S.C. Code Ann. Regs. 103-195 (2012).

We also note the table of contents in the proposed tariff is inaccurate and we ask NBF Beaufort to correct the table to correspond accurately to the tariff provisions. In addition, NBF Beaufort shall provide the Commission and ORS with a Final Tariff and Bill of Lading that conform to the findings, conclusions, and ordering provisions in this Order within thirty days of the date the Commission issues its order.

V. FINDINGS OF FACT

After review of all the evidence in the record, the Commission makes the following findings of fact.

1. The amendments proposed by NBF Beaufort to the rates and charges in its tariff are reasonable.
2. The use of an electronic bill of lading, as presented in the application, is reasonable.
3. The request of NBF Beaufort to indicate accurate address information on the Certificate of Public Convenience and Necessity is reasonable.
4. NBF Beaufort provided sufficient justification to the Commission for its request to increase its rates and charges and for its request to use an electronic bill of lading.
5. It is appropriate and reasonable for the company to use the full replacement coverage provision previously approved by the Commission.
6. The request of NBF Beaufort to require a customer to present a claim for damages to the company after a move within ninety-six (96) hours is denied. We find it is just and reasonable to require a customer to report a claim of damage within fourteen (14) days after a move.
7. The page numbers in the Table of Contents of the proposed tariff do not conform to the page numbers in the tariff and should be corrected.
8. ORS reviewed the application of NBF Beaufort and notified the Commission it determined NBF Beaufort is in compliance with all applicable Commission

rules and regulations, including the Annual Report and Gross Receipt filing requirements, and that no complaints were filed against the company in the past twelve months.

VI. CONCLUSIONS OF LAW

1. The Commission has the authority to set rates and charges of a household goods mover and to establish a tariff that is just and reasonable pursuant to sections 58-23-590 and 58-23-1010 of the South Carolina Code of Laws.
2. The amendments to the rates and charges in the proposed tariff are reasonable pursuant to sections 58-23-590 and 1010, and Regulations 103-191 and 103-192 of the South Carolina Code of State Regulations.
3. The proposal to utilize an electronic bill of lading is reasonable and appropriate pursuant to Regulations 103-158, 103-159, 103-162, 103-190, and section 58-1-201.
4. The use of an accurate address on the Class E Certificate of Public Convenience and Necessity is reasonable and appropriate.
5. It is reasonable for NBF Beaufort to use the replacement coverage provision approved by the Commission. *See* Regulation 103-190 (2012).
6. We find it is just and reasonable to require a customer to report a claim of damage within fourteen (14) days after a move. *See* Regulations 103-191 and 103-195 (2012).
7. It is reasonable to require the company to conform the tariff's Table of Contents to the page numbers in the tariff.

VII. ORDERING PROVISIONS

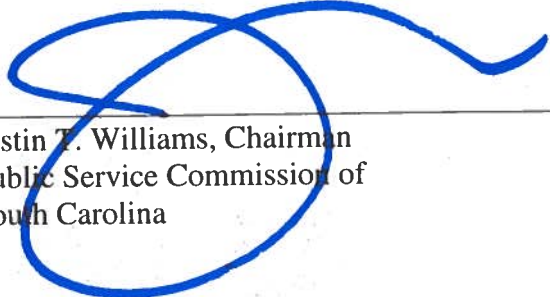
IT IS THEREFORE ORDERED:

1. We approve the request of NBF Beaufort to amend the rates and charges in the tariff.
2. We approve the request of NBF Beaufort to utilize an electronic bill of lading.
3. We approve the use of an accurate address and ask ORS to correct the address appearing on the company's Certificate of Public Convenience and Necessity.
4. It is reasonable for NBF Beaufort to use the full replacement coverage provision approved by the Commission.
5. NBF Beaufort shall not require a customer to report a claim for damages to the company within ninety-six hours of the move.
6. NBF Beaufort shall correct the tariff's Table of Contents.
7. NBF Beaufort shall prepare and provide to ORS and the Commission a revised final tariff and bill of lading that conforms to all findings and conclusions established in this Order, within thirty (30) days of the date of the issuance of this Order.
8. NBF Beaufort shall provide to the Commission and ORS a copy of its Bill of Lading to the Commission within thirty (30) days of the issuance of this order. The Bill of Lading shall be revised, if necessary, to conform to the Final Revised Tariff as set forth in this Order.
9. The Final Amended Tariff and Bill of Lading resulting from this Order must be filed by NBF Beaufort to become effective and available for use. Upon filing with the

Commission and copy to the Office of Regulatory Staff, NBF Beaufort may implement all rates, charges, terms and conditions in its Final Amended Tariff and corresponding Bill of Lading

10. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Justin T. Williams, Chairman
Public Service Commission of
South Carolina